

State of Iowa
Board of Pharmacy

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BOARD MEMBERS

BRETT BARKER
GAYLE MAYER
DANE NEALSON
KATHRYN STONE

JASON HANSEL

Board Chair

ANDREW FUNK

Executive Director

BOARD MEMBERS

LADONNA GRATIAS
EDWARD MCKENNA
JOAN SKOGSTROM

Minutes

July 9, 2019

The Iowa Board of Pharmacy met on July 9-10, 2019, in the conference room at 400 S.W. Eighth Street, Des Moines, Iowa.

TUESDAY, JULY 9, 2019

MEMBERS PRESENT

Jason Hansel, Chair
Edward J. McKenna, Vice-Chair
Brett Barker
LaDonna Gratias
Gayle Mayer
Dane Nealson
Joan Skogstrom
Kathy Stone

STAFF PRESENT

Andrew Funk, Executive Director
Laura Steffensmeier, Esq., Assistant Attorney General
Therese Witkowski, Executive Officer
Jennifer Tiffany, Associate Director of PMP
Amanda Woltz, Administrative Assistant
Christie Carlson, Compliance Officer
Curtis Gerhold, Compliance Officer
Mark Mather, Compliance Officer
Sue Mears, Compliance Officer
Jean Rhodes, Compliance Officer
Daniel Sedlacek, Compliance Officer
James Wolfe, Compliance Officer

At 9:01 a.m., Jason Hansel, called the meeting of the Iowa Board of Pharmacy to order on Tuesday, July 9, 2019.

Closed session

At 9:01 a.m., on a motion by Brett Barker, second by Dane Nealson, the Board voted unanimously by roll call vote to move into closed session pursuant to Iowa Code Section 21.5(1)(a), to review or discuss records which are required or authorized by state or federal law to be kept confidential; pursuant to Iowa Code Section 21.5(1)(d), to discuss whether to initiate licensee disciplinary investigations or proceedings; and pursuant to Iowa Code Section 21.5(1)(f), to discuss the decision to be rendered in a contested case conducted according to the provisions of Iowa Code Chapter 17A.

At 1:55 p.m., the Board returned to open session.

At 1:56 p.m., on a motion by Brett Barker, second by Jason Hansel, the Board voted unanimously by roll call vote to move into closed session pursuant to Iowa Code Section 21.5(1)(f), to discuss the decision to be rendered in a contested case conducted according to the provisions of Iowa Code Chapter 17A.

MEMBERS PRESENT

Jason Hansel, Chair
Brett Barker
LaDonna Gratias
Gayle Mayer
Dane Nealson
Joan Skogstrom
Kathy Stone

STAFF PRESENT

Andrew Funk, Executive Director
Therese Witkowski, Executive Officer
Amanda Woltz, Administrative Assistant

MEMBERS RECUSED

Edward J. McKenna, Vice-Chair

At 2:03 p.m., the Board returned to open session.

In open session, the following actions were taken:

1. Closed Session Minutes

Motion by Gayle Mayer, second by Joan Skogstrom, to approve the Closed Session Minutes of the May 1, 2019, meeting. Motion approved unanimously.

2. Close With No Further Action

Motion by Brett Barker, second by Dane Nealson, to close with no further action the following investigative files in complaint numbers: 2018-0152, 2019-0003, 2018-0151, 2019-0040, 2018-0109, 2019-0014, 2019-0026, 2019-0034, 2019-0039, 2019-0042, 2019-0016, 2019-0018, 2019-0043, 2019-0050, 2018-0086, 2019-0011, 2019-0020, and 2019-0027. Motion approved unanimously.

3. Administrative Warning

Motion by Dane Nealson, second by Joan Skogstrom, to issue administrative warnings in the following complaint numbers: 2019-0052, 2019-0063, 2018-0148, 2019-0048, 2019-0056, 2019-0057, and 2019-0062. Motion approved unanimously.

4. Letter of Education

Motion by Ed McKenna, second by Dane Nealson, to issue letters of education in the following complaint numbers: 2019-0012, 2018-0148, and 2019-0046. Motion approved unanimously.

5. Notice of Hearing and Statement of Charges

Motion by Brett Barker, second by Dane Nealson, to approve the Notice of Hearing and Statement of Charges in the following case. Motion approved unanimously.

A. 2019-0123, Empower Pharmacy, Nonresident Pharmacy No. 4263, Houston, Texas.

6. Combined Statement of Charges, Settlement Agreement, and Final Order

Motion by Dane Nealson, second by Joan Skogstrom, to approve the Combined Statement of Charges, Settlement Agreement, and Final Order in the following cases. Motion approved unanimously.

A. 2018-0031, Walgreens Pharmacy 10070, License 1323, Carroll

B. 2018-0056, Tatum Cacek, Technician Trainee Registration 26082, Marshalltown

C. 2019-0032, CVS Pharmacy #8547, License 650, Iowa City

D. 2019-0037, CVS Pharmacy #10032, License 1421, Marion

E. 2019-0067, RxSolutions, Nonresident Pharmacy License 4392, Papillion, Nebraska

7. Findings of Fact, Conclusion of Law, Decision, and Order

Motion by Brett Barker, second by Joan Skogstrom, to approve the Findings of Fact, Conclusion of Law, Decision, and Order in the following case. Motion approved unanimously.

A. 2018-0093, Thomas Donner, Pharmacist License 16040, Fort Dodge

At 2:04 p.m., motion by Dane Nealson, second by Joan Skogstrom, to adjourn. Motion approved unanimously.

WEDNESDAY JULY 10, 2019

MEMBERS PRESENT

Jason Hansel, Chair
Edward J. McKenna, Vice-Chair
Brett Barker
LaDonna Gratias
Gayle Mayer
Dane Nealson
Joan Skogstrom
Kathy Stone

SPEAKERS

Anthony Pudlo, IPA

STAFF PRESENT

Andrew Funk, Executive Director
Laura Steffensmeier, Esq., Assistant Attorney General
Therese Witkowski, Executive Officer
Jennifer Tiffany, Associate Director of PMP
Amanda Woltz, Administrative Assistant
Christie Carlson, Compliance Officer
Curtis Gerhold, Compliance Officer
Mark Mather, Compliance Officer
Sue Mears, Compliance Officer
Jean Rhodes, Compliance Officer
Daniel Sedlacek, Compliance Officer
James Wolfe, Compliance Officer

Jonathan Fransen, Hy-Vee
Pamela Wiltfang, North Liberty

Call to Order

At 9:01 a.m. Jason Hansel, Chair, called the meeting of the Iowa Board of Pharmacy to order on Wednesday, July 10, 2019.

Public Comments

No public comments.

Approval of Open Session Minutes

The open session minutes of the May 1-2, 2019, meeting were reviewed.

Motion by Brett Barker, seconded by Joan Skogstrom, to approve the Open Session Minutes of the May 1-2, 2019 meeting as presented. Motion approved unanimously.

The open session minutes of the June 26, 2019, teleconference meeting were reviewed.

Motion by Brett Barker, seconded by Gayle Mayer, to approve the Open Session Minutes of the June 26, 2019 teleconference meeting as presented. Motion approved unanimously.

Requests

1. Request to reactivate pharmacist license – Yukio Phillips, License 19075

Motion by Joan Skogstrom, seconded by Brett Barker, to reactivate Ms. Phillips Iowa pharmacist license upon completion, by July 10, 2020, of 270 hours of continuing education, 1,000 hours of internship, and taking and passing both the NAPLEX and MPJE. Motion approved unanimously.

2. Request to waive rule 13.8(2) requiring the managing pharmacy PIC to be the telepharmacy PIC – NuCara Pharmacy, Ackley, Conrad, and Traer

Motion by Joan Skogstrom, seconded by Gayle Mayer, to approve the request for 5 years, or until the rules are effective, whichever is sooner. Motion approved unanimously with Barker and Nealson abstaining.

Rules Committee Appointments

Brett Barker has taken the place of Jason Hansel on the rules committee. Due to the number of board members we can add a rotating position to the committee depending on what would be discussed during the meetings.

Alternate Board Members Recommendations

The purpose of alternative Board members is to sit in during contested cases when there is not a quorum of regular members. Motion by Brett Barker, seconded by Dane Nealson, to approve the alternative Board members.

Board Charter Continued Discussion

The draft Board Charter was presented to provide additional opportunity for Board members to provide feedback. The Board members did not have any comments.

Reports & Informational Items

1. Executive Director's Report

- A. Staffing Update. Dzenisa Duric was hired as a clerk specialist, the position is new and will process technician and technician trainee registrations. The open compliance officer is in the final stages of approval. The open position created by Becky Hall's retirement has been filed and are waiting for final signatures.
- B. Database Update. The licensing database is on track to release initial 3PL and limited distributor application online by July 31, 2019. The next online applications to be implemented will be pharmacist interns and individual controlled substance act registrations.
- C. Licensing Update. The Board is working on aligning certified technician's Board registration with the expiration date of their national certification

2. Meetings and Travel

- A. The PMP Advisory Council meeting is scheduled to meet Thursday, July 11, 2019.
- B. The Board's Strategic Planning meeting is currently scheduled for Wednesday, July 31, 2019
- C. NABP District V meeting is scheduled for August 7-9, 2019 in Duluth, Minnesota.
- D. The Board's rules committee meeting is scheduled to meeting August 20, 2019.
- E. The IMP3 committee meeting is scheduled for August 28, 2019
- F. The next Board meeting is scheduled for September 10-11, 2019
- G. Critical Point Sterile Compounding training is October 29-November 1 in Totowa, New Jersey. Jim Wolfe, Sue Mears, Mark Mather, and Jen Tiffany will attend.

3. PMP and MedDrop Update

- A. Jen Tiffany provided an update on the PMP and MedDrop.

4. IMP3 Report – Andrew Funk

- A. The last IMP3 Committee meeting was held on June 4, 2019. The next IMP3 meeting is scheduled for August 28, 2019, at the Board office.

There are currently 7 active participants in the program. Becky Carlson is currently working on outreach and education.

5. Legal Update – Laura Steffensmeier

Ms. Steffensmeier had no new legal update for the Board.

6. 115th NABP Annual Meeting: Passed Resolutions – Andrew Funk

Director Funk presented the resolutions that were passed at the 115th NABP Annual Meeting.

7. USP Delayed Compliance Petition

Informational Item

8. Hy-Vee Pharmacy Fulfillment Center's 2019 Q1 Report

The Board reviewed the pharmacy's quarterly report.

9. IPA's Newest Policies

Anthony Publo presented an update on IPA's newest policies.

Rules and Legislation

1. 2020 Legislative Priorities

Director Funk presented the upcoming legislative priorities; professional practice expansion, prescription adaption, controlled substance scheduling, PMP, and emergency supply of insulin/prescription drugs.

2. Proposed to Adopt and File amendments to Chapter 8, "Universal Practice Standards," Chapter 10, "Controlled Substances," and Chapter 21, "Electronic Data and Automated Systems" (ARC 4386C)

During the 2018 Legislative Session, the Iowa Code was amended to require the electronic transmission of all prescriptions as of January 1, 2020. The amendments to the Iowa Code provided exemptions for prescriptions which will not be required to be transmitted electronically. The amendments provided that a prescriber, medical group, institution, or pharmacy that is unable to comply with the electronic prescription mandate may petition the Board for an exemption. The amendments required the Board to adopt rules to establish the form and specific information to be included in a request for such an exemption and the specific criteria to be considered by the Board in determining whether to approve a request for exemption. This rule making implements the electronic prescription mandate.

Motion by Brett Barker, seconded by Gayle Mayer, to adopt and file. Motion approved unanimously.

3. Proposed to Adopt and File amendments to Chapter 39, "Expanded Practice Standards" (ARC 4388C)

The amendments provide language which identifies an order issued by a pharmacist under a statewide protocol constitutes a prescription for the purpose of submission third-party insurance claims.

Motion by Brett Barker, seconded by Dane Nealson, to adopt and file. Motion approved unanimously.

4. Proposed to Adopt and File amendments to Chapter 2, "Pharmacist Licenses," Chapter 4, "Pharmacist-Interns," Chapter 25, "Child Support Noncompliance," Chapter 31, "Student Loan Default or Noncompliance with Agreement for Payment of Obligation," and Chapter 32, "Nonpayment of State Debt" (ARC 4391C)

The Board conducted an overall five-year review of Chapter 2 pursuant to Iowa Code section 17A.7(2). The resulting amendments include:

- Addition of rules identifying the purpose and scope and definitions for the chapter, consistent with other chapters of Board rules;
- Addition of the word “nonrefundable” as it relates to the submission of fees, consistent with language added in other Board rules;
- Updates to the licensure application, examination eligibility, and license transfer processes through the National Association of Boards of Pharmacy, to be consistent with current procedures;
- Updates to the licensure application process for a foreign pharmacy graduate through the Foreign Pharmacy Graduate Examination Committee, to be consistent with current procedures;
- Removal of language relating to a surcharge pursuant to 657—Chapter 30, because the Board discontinued assessing a surcharge several years ago;
- Addition of a fee for a written license verification;
- Expansion of the options for foreign pharmacy graduates to fulfill internship requirements at Iowa-licensed pharmacies to include pharmacies other than community or hospital pharmacies;
- Removal of the option for a foreign pharmacy graduate to petition the Board for credit toward internship resulting from the pharmacy graduate’s pharmacy experience in a foreign country;
- Updates to language relating to the continuing education requirements for pharmacists, to be consistent with more commonly used terminology;
- Addition of an exemption for continuing education requirements for pharmacists who are not living or practicing in Iowa but who are licensed and practicing in another state, as well as for active duty military personnel;
- Addition of a criminal history record check for pharmacist licensure candidates prior to initial licensure;
- Addition of a requirement that a pharmacist notify the Board within 30 days of any criminal conviction, plea, or disciplinary action;
- Removal of the requirement that a pharmacist notify the Board in advance of the pharmacist’s intent to complete a continuing professional development portfolio;
- Updates to the language relating to the submission of a pharmacist-intern’s notarized affidavit of internship to the Board within six months of graduation;
- Updates to cross references where appropriate; and
- Other nonsubstantive changes and rearrangement of rules or subrules to provide consistency and clarification.

Motion by Brett Barker, seconded by Dane Nealson, to adopt and file. Motion approved unanimously.

5. Proposed to Adopt and File amendments to Chapter 33, "Military Service and Veteran Reciprocity" (ARC 4483C)

During the 2019 Legislative Session, a change was made to the Iowa Code to require agencies to establish procedures to expedite the licensing of an individual who is licensed in a similar profession or occupation in another state and who is the spouse of an active duty member of the military forces of the United States. These amendments implement this change.

Motion by Ed McKenna, seconded by Dane Nealson, to adopt and file. Motion approved unanimously.

6. Proposed to Adopt and File rescission of Chapter 31, "Student Loan Default or Noncompliance with Agreement for Payment of Obligation" and amendments to Chapter 36, "Discipline" (ARC 4484C)

During the 2019 Legislative Session, changes were made to the Iowa Code which resulted in the repeal of Iowa Code sections 261.121 through 261.127, on July 1, 2019, and prohibit the suspension or revocation of a license issued by a board to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency. The rule making implements the legislative changes.

Motion by Dane Nealson, seconded by Brett Barker, to adopt and file. Motion approved unanimously.

7. Proposed Notice of Intended Action to amend Chapter 10, "Controlled Substances"

The proposed amendments temporarily place five synthetic cannabinoids into Schedule I as well as two substances into Schedule IV of the Iowa Uniform Controlled Substances Act in response to action taken by the federal Drug Enforcement Administration.

Motion by Brett Barker, seconded by Gayle Mayer, to file as a Notice of Intended Action. Motion approved unanimously.

8. Proposed Notice of Intended Action to amend Chapter 2, "Pharmacist Licenses"

During the 2019 legislative session, changes were made to the Code relating to training of health care professionals who qualify as mandatory reporters. The proposed amendments reflect the changes made to the Code.

Motion by Brett Barker, seconded by Dane Nealson, to file as a Notice of Intended Action. Motion approved unanimously.

9. Proposed Notice of Intended Action to amend Chapter 13, "Telepharmacy Practice"

The proposed amendments would allow the pharmacist in charge of a managing pharmacy to designate charge of the telepharmacy site to be employed by the managing pharmacy and to be identified on the pharmacy license of the telepharmacy site; allow training of telepharmacy technicians at the managing pharmacy or at another pharmacy which uses the same audiovisual technology system; and requires the display of an original license to practice pharmacy in Iowa of the telepharmacy site pharmacist in charge and the current license renewal certificates of the telepharmacy site pharmacist in charge and any pharmacist who may provide counseling to patients at the telepharmacy site.

Motion by Brett Barker, seconded by Dane Nealson, to file as a Notice of Intended Action. Motion approved unanimously.

IDPH Oversight of the Executive Director: Discussion of Steps Forward-Establishment of an MOU

Director Funk provided an overview of the bill that passed during the last legislative session and the plan to develop a MOU with IDPH. Sarah Reisetter, Deputy Director of IDPH attended the meeting and was available to answer any questions that the Board members had.

Brett Barker moved at 1:04 p.m. to move to closed session with Ed McKenna seconding it. The motion was approved unanimously by roll call vote.


Probationary Appearances and Requests - portions of the discussion may be held in closed session pursuant to Iowa Code section 21.5(1)(a), to review or discuss records which are required or authorized by state or federal law to be kept confidential; pursuant to Iowa Code section 21.5(1)(d), to discuss whether to initiate licensee disciplinary investigations or proceedings; and pursuant to Iowa Code section 21.5(1)(f), to discuss the decision to be rendered in a contested case conducted according to the provisions of Iowa Code chapter 17A.

1:00 p.m. James Nielcen, RPh, License 14579, Case 2013-140

At 1:43 p.m., the Board returned to open session.

Motion by Brett Barker, seconded by Dane Nealson, to approve the request to terminate probation immediately in case 2013-140, James Nielcen. Motion approved unanimously.

At 1:44 p.m., motion by Brett Barker, second by Joan Skogstrom, to adjourn. Motion approved unanimously.



Amanda Woltz, Administrative Assistant and Recording Secretary



Andrew Funk
Executive Director



Jason Hansel
Board Chair

APPROVED THIS 10th DAY OF SEPTEMBER, 2019